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9 *Attorney For Creditors Robert & Esther Mermelstein*

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12 UNITED STATES BANKRUPTCY COURT
13 CENTRAL DISTRICT OF CALIFORNIA
14 LOS ANGELES ANA DIVISION

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16 In re
17 LESLIE KLEIN,
18 Debtor and Debtor in Possession,

19 Case No. 2:23-bk-10990-SK

20 Hon. Sandra Klein

21 Chapter 11

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28 **RESPONSE OF ROBERT & ESTHER
MERMELSTEIN TO MOTION FOR ORDER
DISMISSING DEBTOR'S CHAPTER 11
BANKRUPTCY CASE**

29 Date: 5-17-2023

30 Time: 9:00AM

31 Place: 255 East Temple Street Los Angeles
32 Courtroom 1575

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38 **TO THE HONORABLE SANDRA R. KLEIN, UNITED STATES BANKRUPTCY
39 JUDGE, THE DEBTOR AND HIS COUNSEL, MOVANTS AND THEIR COUNSEL,
40 AND ALL OTHER INTERESTED PARTIES:**

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42 Creditors Robert & Esther Mermelstein ("Mermelstein") responds to the *Motion For
43 Order Dismissing Debtor's Chapter 11 Bankruptcy Case* under 11 USC § 1112 ("Vago Motion")
44 filed by Erica and Joseph Vago ("Vago") [Doc-79], and represents and alleges as follows:

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46 Mermelstein agrees with Vago, that the Debtor Leslie Klein ("Klein")'s monthly
47 operating reports ("MOR") had negative balances, supporting that Klein did not have sufficient
48 income to support a chapter 11 reorganization (ie., that this case was filed in bad faith), and that
49 Klein is a judicially confirmed fraudster who has stolen millions of dollars from multiple victims
50 via a complex web of deception.

1 However, Mermelstein believes that dismissal is the wrong remedy and not in the best
2 interest of creditors. Mermelstein agrees with the United States Trustee's Limited Opposition
3 [Doc-98] that the appointment of a bankruptcy trustee would better serve the interests of all
4 creditors, would more efficiently locate and liquidate assets to all creditors, and is the best
5 remedy under the circumstances.

6 Mermelstein also agrees with Franklin H. Menlo, co-trustee of The Franklin Menlo
7 Irrevocable Trust established on March 1, 1983 ("Menlo")'s *Response* [Doc-99] that this case
8 cries out for conversion to chapter 7, not dismissal of the case.

9 A Chapter 7 Bankruptcy Trustee's oversight will serve to unravel Klein's web of
10 financial chicanery, recover Klein's undisclosed and omitted assets (ie., \$1.2 million of United
11 States Treasury bills with a maturity date of 3-28-2023), sell Klein's home in Hancock Park and
12 in Jerusalem, liquidate Klein's shares in millions of dollars in insurance policies, and recover
13 Klein's preferential transfers and fraudulent conveyances (ie., Klein's transfer of \$6 million—to
14 BADCO for no consideration), and dubious charitable contributions, all for the benefit of
15 creditors.

16 As of this date, the Claims Register reflects total claims of approximately
17 \$140,498,604.18. Of that total, Mermelstein has timely filed seven (7) *Proofs of Claim* against
18 Klein totaling \$13,480,949, primarily based on Klein's misappropriating insurance policies, as
19 follows:

- 20 (1) Claim # 19-1 (Garza) \$500,000.00;
21 (2) Claim # 20-1 (Times Square) \$333,333.00;
22 (3) Claim # 21-1 (Ganz) \$500,000.00;
23 (4) Claim # 22-1 (Spitzer) \$2,250,000.00;
24 (5) Claim # 23-1 (Kohn) \$1,200,000.00;
25 (6) Claim # 24-1 (Friedman) \$1,000,000.00; &
26 (7) Claim # 25-2 (Zimmerman) \$7,697,616.34.

27 TOTAL: \$13,480,949
28

1 Mermelstein's claims against Klein are all nondischargeable, per 11 USC § 523(a)(2)(A), 11
2 USC § 523(a)(2)(B), 11 USC § 523(a)(4); & 11 USC § 523(a)(6), justifying punitive damages.
3

4 Assuming the Trustee will avoid any and all recorded abstracts and filed notice of
5 judgment liens as preferences per 11 USC §547, all creditors would be thus deemed unsecured,
6 there would hopefully be sufficient assets in the estate to provide a pro rata distribution to
general unsecured creditors.

7 Mermelstein concurs that cause has been shown and requests the conversion to chapter 7
8 and the appointment of a chapter 7 trustee is the most appropriate remedy under the
9 circumstances.

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11 DATED: May 3, 2023

LAW OFFICE OF BARUCH C. COHEN A
Professional Law Corporation

12
13 By /S/ Baruch C. Cohen
14 Baruch C. Cohen, Esq.
15 Attorney For Creditors Robert & Esther
Mermelstein

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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

4929 Wilshire Boulevard, Suite 940, Los Angeles, California 90010.

A true and correct copy of the foregoing document entitled: **RESPONSE OF ROBERT & ESTHER MERMELSTEIN TO MOTION FOR ORDER DISMISSING DEBTOR'S CHAPTER 11 BANKRUPTCY CASE** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) 5/4/2023, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

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Service information continued on attached page

2. SERVED BY UNITED STATES MAIL: On 5/4/2023, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on 5/4/2023, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Hon. Sandra Klein, 255 E. Temple Street, Suite 1582, Los Angeles, CA 90012

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

5/4/2023 Baruch C. Cohen, Esq.
Date Printed Name

/s/ Baruch C. Cohen
Signature